IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4421 of 2006
Date of decision : 21.9.2006

Oriental Insurance Company Limited.

....Appellant

Versus

Shudharva Devi and others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.Sanjiv Pabbi, Advocate
for the appellant.

...

MAHESH GROVER, J.(Oral)

The instant appeal has been filed by the insurance company against the award of the Motor Accident Claims Tribunal, Panchkula dated 15.5.2006 in M.A.C.T.Case No.308 of 2004 awarding a sum of Rs.2,17,000/- on account of the death of a 38 years old man. On the fateful day i.e. 6.2.2004 the deceased Jeet Bahadur was going along with his son on separate bicycles towards their place of work when a motorcycle bearing No.HR-03-E-3363 hit Jeet Bahadur from back side resulting in serious injuries to him which ultimately resulted in his death in the hospital. The FIR regarding the accident in question was lodged on 7.2.2004.

The insurance company has assailed the award of the Tribunal by disputing the identity of the motorcycle which caused the death. Attention was drawn to the statement of complainant Mohinder

who had stated therein that the accident was caused by vehicle No.HR-03-E-6366.

On appraisal of the submissions made by the learned counsel for the appellant as also on perusing the record it transpires that the FIR was lodged on 7.2.2004 and the delay of one day was adequately explained by PW1 Mohinder who was accompanying his father Jeet Bahadur, the deceased. Besides, he had identified the driver of the motorcycle and had also stated before the police that the accident had taken place with vehicle No.HR-03-E-3363.Vishwas, the motorcyclist is also facing criminal prosecution under the provisions of Section 279/304-A of the Indian Penal Code. All these factors lead to an inescapable conclusion that the motorcycle bearing No.HR-03-E-3363 was involved in the accident. There is also no evidence to show that the motorcyclist who is facing trial has pleaded false implication. The contention of the learned counsel for the appellant is thus misplaced.

That being the situation, there is no infirmity in the finding recorded by the Tribunal holding that the accident resulting in the death of the deceased was caused due to rash and negligent driving of motorcycle No.HR-03-E-3363.

No other point was urged.

Consequently, the appeal being devoid of any merit is dismissed in limine.

(MAHESH GROVER)
JUDGE

21.9.2006

(UMA NATH SINGH)
JUDGE

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